IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Tr.P(C).No. 230 of 2007()

OPHMA.705/2007 of FAMILY COURT, NEDUMANGAD
.....

PETITIONER:

R.RAJITHA, D/O.RAGHUNATHAN,
RESIDING AT DHANYANIVAS, ARATTUVAZHY,
POONTHOPPU WARD, ALAPPUZHA.

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENT:

G.DEEPAK KUMAR, S/O.GOPALAKRISHNAN,
RESIDING AT 7/691(1), MADUTHUVILAKAM,
MARUTHANKUZHY, KANJIRAMPARA P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.J.HARIKUMAR
SRI.HARIKUMAR.S.

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.2651 OF 2007
IN
TR.P.C. NO.230 OF 2007

6/12/07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.

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Tr.P.C. NO. 230 OF 2007

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Dated this the 6th day of December, 2007.

J U D G M E N T

This Transfer Petition is filed with a prayer to transfer O.P.(HMA)705/07 pending before the Family Court, Thiruvananthapuram to the Family Court, Alappuzha for joint trial and disposal of the case along with O.P.(divorce)718/07. The transfer petitioner is the wife and she is the respondent in the petition before the Family Court, Thiruvananthapuram which is filed by the husband for restitution of conjugal rights. The wife has filed an application for divorce and also for return of ornaments etc. and it is pending before the Family Court, Alappuzha as O.P.718/07. It is submitted by the wife that she is only having aged parents besides a small child of 10 months and there is also financial constrain for her to travel from Alappuzha to Thiruvananthapuram and she cannot go to Thiruvananthapuram without the aid and help of somebody which is also lacking. Therefore, she prays for transfer.

2. On the other hand, the learned counsel for the respondent would submit that there is no ground to transfer and equally he is also having financial constrain and therefore transfer may not be effected. The question to be considered is on the comparative hardship. She is a wife with 10 months old child and is only having aged parents and she also says that she cannot travel to Thiruvananthapuram without the help of somebody. The financial constrains also add peril to the same. Therefore, I find the comparative hardship is more on the wife rather than on the husband and therefore I direct the Family Court, Thiruvananthapuram to transfer O.P.705/07 pending before that Court to the Family Court, Alappuzha where O.P.718/07 is pending. Needless to say that unless there is absolute necessity of the presence of the husband the Alappuzha Court need not insist for the personal presence on every day and when applications are filed for exemption on genuine grounds it may be granted.

The Tr.P.C. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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